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EYES ONLY

Pat T. *[Signature]*3 June 1987
OCA 87-2361

MEMORANDUM FOR THE RECORD

SUBJECT: DCI-DDCI Meeting with Chairman Stokes and
Representative Hyde

The meeting was held on 3 June. Tom Latimer, Tom Smeeton and I also attended.

The Director proposed that such meetings continue. They provide a useful forum for airing problems. Mr. Stokes agreed. The meetings had been used to solve a number of problems over the months.

Mr. Hyde expressed concern that the Iran/Contra hearings would focus renewed attention on CIA. More CIA witnesses might be requested to appear in executive session. (Later in the meeting, Tom Smeeton said that Clair George, Tom Twetten, and Alan Fiers could be called during Phase II of the hearings. The Committee would probably depose them in front of a few Members rather than in front of the full Committee. CIA would then be asked to declassify the transcript.)

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Mr. Stokes said that some Agency witnesses were less than candid and forthright. There was an atmosphere of distrust on the Committee. Tom Latimer was preparing a document giving examples of misleading testimony. Mr. Stokes said cuts in the Reserve represented an attempt by Members to get the Agency's attention regarding this problem. The Director responded that it was a central linchpin of his beliefs that he did not like taking back testimony given in Congress. It either had to be correct the first time or the witness had to explain that his knowledge was limited and subject to additions. The Deputy Director said that the culture of the clandestine services, which requires the protection of sources and methods, was not congenial to testifying fully.

Mr. Stokes continued that since the Committee undertook a very specialized kind of oversight, it depended heavily on staff. But staff had also had their problems with the Agency in that the Agency did not always respond in a forthright fashion. The Deputy Director believed that the problem was essentially confined to the clandestine services; both Mr. Stokes and Mr. Hyde agreed.

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The Director described times when the Agency did not want to discuss something, such as sources and methods. In such circumstances, the witness should explain forthrightly that he did not wish to discuss a certain situation. Then if the Committee objected, the issue could be raised at the Chairman or other suitable level. What the Director objected to was a witness attempting to protect sources and methods by evasion. It was better to put the Agency's position on the table.

The Deputy Director underscored the problems created by leaks. These problems hardened the attitude towards oversight of many clandestine services officers. Mr. Hyde mentioned the [redacted] leak, and Mr. Stokes said that the Committee had written the Attorney General asking for an FBI investigation. He stressed his strong feelings about preventing leaks.

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Mr. Stokes asked whether the Director planned to take a look at the Inspector General's operation. He said the Committee considered the operation a weak point and hoped the Director would look it over.

Mr. Stokes discussed the personnel issue. He described the Presidential Commission called for in the Committee's mark up of the Intelligence Authorization Bill and asked that no major changes be made in the Agency's personnel system until the Commission finishes its work. The Deputy Director said the Agency was some distance from internal agreement on desired changes. This process could not be complete before Fall at the earliest. The Director asked what were the Committee's concerns, and Mr. Stokes answered that the Committee was concerned about changes in the management of people, money and organization. Speaking at Mr. Stokes' request, Tom Latimer questioned whether CIA merited a unique personnel system such as he believed was contemplated. How could CIA justify having a system different from the rest of the Federal government? For example, why did CIA secretaries merit special treatment? CIA had not convinced staff that a unique system was justified, and the staff therefore would not recommend to Members that they look favorably on Agency plans. If at some time staff became convinced that a unique system was needed, staff would recommend that Members support changes needed to create one. The Deputy Director noted difficulties in holding people, explaining that some of the changes were aimed at making it easier for the Agency to do so.

The Deputy Director said the Committee would soon receive an estimate on AIDS in Africa.

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Mr. Stokes raised [redacted] commenting that Representative AuCoin had complained to the Committee about the Agency's failure to respond to his request for information. Both the Deputy Director and the Director agreed that the Agency should discuss substantive intelligence issues but not operational issues with Members who were not on oversight committees. Mr. Stokes said that often Mr. AuCoin complained to the Committee about the Agency's handling of [redacted] the Agency had been cooperative in providing available information. I noted that at the time of Mr. AuCoin's initial inquiries to the Agency there was in fact no information available, but his office apparently had not believed us.

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[redacted]
David D. Gries
Director of Congressional Affairs

cc: DDCI

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29 May 1987

MEMORANDUM FOR: The Director
The Deputy Director

FROM: David D. Grieson
Director of Congressional Affairs

SUBJECT: Your Meeting on 3 June with Representatives
Stokes and Hyde

Your regular monthly meeting with Representatives Louis Stokes (D., OH) and Henry Hyde (R., IL), the Chairman and Ranking Minority Member of the House Intelligence Committee respectively, is scheduled for 3 June at 0800 in H-405, The Capitol. Talking points and background information are attached. Also attending are the Deputy Director, Committee Staff Director Tom Latimer, Minority Staff Director Tom Smeeton and myself.

A summary of the last meeting with Mr. Stokes and Mr. Hyde is attached at tab A.

Suggested talking points follow:

--Your wish to continue meeting with Mr. Stokes and Mr. Hyde to discuss matters of concern. This is the fourth meeting in the current series. Our objective is to increase rapport and to establish a forum for discussing sensitive matters. Mr. Stokes approves of holding regular meetings, but will not discuss sensitive issues if he is not permitted to brief other Committee Members. Nor does he agree that the meetings can be used to provide exclusive notification to the Chairman and Ranking Minority Member. This may explain why he insists that the Committee's senior staff attend.

--Their assessment of relations between the Intelligence Community and the House Intelligence Committee. Mr. Stokes has occasionally raised the issue of credibility. He believes some CIA witnesses have misled the Committee, and in the past he has questioned the completeness and timeliness of some of our responses. Acting Director Gates addressed these concerns directly and forcefully, dispelling many of Mr. Stokes' concerns.

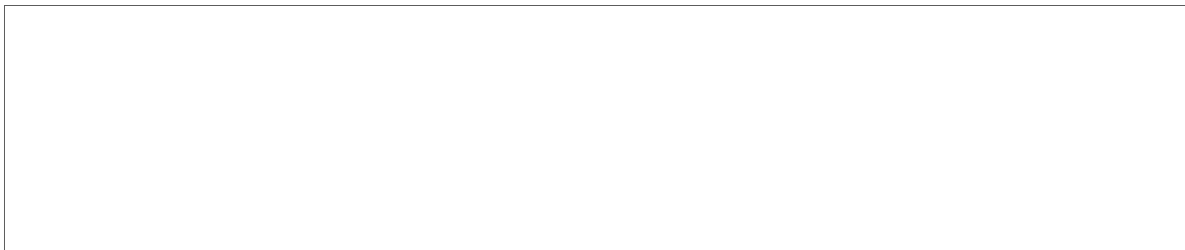
--Your concept of oversight. Your experience as FBI Director has given you a generally positive view of oversight. The Congress increased the FBI's counterintelligence budget. Oversight was constructive, though spread among too many committees. You required FBI officers to testify fully, correcting the record as needed, but you also protected sources and methods from unnecessary disclosure. You expect to spend time on the oversight relationship and to make it produce results for both parties. (I am making assumptions about your views, and the assumptions may be wrong. However, I suggest you draw on your FBI experience.)

--How CIA is faring in the Iran/Contra hearings. There have been daily references to CIA activities in the hearings, but no new revelations. Both Mr. Stokes and Mr. Hyde have asked numerous questions about CIA.



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--Public appearances of Agency officers. You understand that Joe Fernandez' appearance at closed sessions of the Iran/Contra Committee was acceptable to the Committee. You are also aware that the Agency acted promptly to declassify his testimony. You appreciate the Committee's understanding of the Agency's objection to requiring Directorate of Operations employees to give public testimony. My earlier memorandum to you on Fernandez is attached at tab B.



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Subjects Mr. Stokes or Mr. Hyde have raised in the past include:

--H.R. 1013, the Stokes/Boland Bill. The key feature of this pending bill requires the President to report all Findings in writing to the Congress within 48 hours of signature. The next hearing is set for 5 June. Witnesses include Under Secretary of State Armacost and Jim Taylor, our Executive Director. The Administration is opposed to H.R. 1013. You made statements at your confirmation hearings that relate to the subject matter of the bill. Excerpts are attached at tab D.

--Minority hiring practices. Last year the Agency cancelled arrangements with the Federal Protective Service of the General Services Administration for protective services and set up its own protective services organization. The new organization is called the Special Protective Service; officers who work there are Special Protective Officers. Mr. Stokes may question whether the Agency gave preference to Federal Protective Officers, particularly minority officers, who wished to become Special Protective Officers. We have provided a written response to Mr. Stokes' 8 May 1987 letter, and a followup meeting on this subject is scheduled. The exchange of letters appears at tab E.

--Joint Intelligence Committee. Mr. Hyde may raise H.J. Res. 48, his bill for a Joint Intelligence Committee. Mr. Hyde's legislation would merge the House and Senate Intelligence Committees into a committee with full authorizing powers. Our view is that only the Congress can decide how its oversight function should be managed.

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David D. Gries

Attachments
As stated

A

The last meeting with Rep. Stokes and Rep. Hyde was held on 6 May. The Acting Director represented the Community. Also attending were Staff Director Latimer, Minority Staff Director Smeeton and myself. Subjects raised included:

--Mr. Stokes' comment that the Agency is responding in a timely fashion to Committee inquiries. There is no backlog.

--Mr. Stokes' action to reduce the Reserve for Contingencies by 60 percent during the House Intelligence Committee's mark up.

--Mr. Hyde's inquiry about our relations with the Jamestown Foundation.



--Our opposition to public testimony by Directorate of Operations employees.

--House Intelligence Committee action to launch a personnel study.

--Discussions with the Senate Intelligence Committee about the General Accounting Office.

--Update on the new Moscow Embassy.

--Our opposition to transferring any security responsibilities abroad from State to CIA.

--Intelligence Community responsibilities regarding verification of arms control agreements.

--The possibility of hostilities between India and China.



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UNITED STATES

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

FULL COMMITTEE

NOMINATION OF WILLIAM H. WEBSTER
TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Wednesday, April 8, 1987



WASHINGTON, D.C. 20510

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1 become the target of criminal investigation?

2 JUDGE WEBSTER: No, I have to tell you in all
3 candor it was not on my mind. In fact, I don't even
4 recall seeing it until it was called to my attention
5 recently in connection with preparing the answers to
6 these questions. It came up with the kinds of
7 informational notes that come up literally by the
8 dozens, call for no action on my part, had been reviewed
9 by all of my career subordinates in the criminal line.
10 I really did not have that in mind.

11 THE CHAIRMAN: So there was nothing in your mind at
12 that time that caused you to have any feeling that this
13 might turn into a criminal investigation.

14 JUDGE WEBSTER: No, Mr. Chairman. It was entirely
15 focused on Iran and the Iranian situation, the Iranian
16 initiative. I frankly have entertained some ill ease
17 about the role of the National Security Council in those
18 areas, but I had no question about whether anything
19 illegal was taking place.

20 THE CHAIRMAN: Let me go now directly to the point
21 of oversight responsibility, and of course as you know,
22 prior notification is to be given to this Committee, or
23 at least in extraordinary circumstances to the
24 leadership of this Committee in regard to covert
25 actions, significant intelligence gathering activities,

1 or any illegal intelligence gathering activities that
2 are brought to the attention of government officials.
3 These are also to be reported.

4 Can you think of any circumstances in which the
5 President should withhold prior notice all together,
6 even of the Chairman and Vice Chairman of this Committee
7 and the four leaders of the two Houses?

8 JUDGE WEBSTER: Mr. Chairman, it is difficult for
9 me to conjure up situations in which I, based on my own
10 experience with this Committee, would want to see
11 information withheld. This is not to say that the
12 President might take a different view of an
13 extraordinarily sensitive, potentially life-threatening
14 initiative that could be damaged and lives put at risk
15 if there were some kind of premature exposure. I have
16 difficulty thinking of any such situations. But the
17 President has a more overriding responsibility.

18 THE CHAIRMAN: If for some reason some dire
19 emergency developed where notice were withheld from this
20 Committee, the President, of course, then is required to
21 provide notice after the fact in a timely fashion. How
22 would you interpret that phrase, "in a timely fashion"?

23 JUDGE WEBSTER: Well, of course, I went to the
24 dictionary, having a name of that kind -- Webster's
25 Dictionary --

1 (General laughter.)

2 JUDGE WEBSTER: I didn't get very much help there
3 nor really in the legislative history. It speaks about
4 an appropriate time or in reference to something. In
5 law, if there is a specific number of days you have to
6 do something, then you would decide whether you did it
7 in a timely way, that is, within the time prescribed.
8 If there is no time, and it appears that this issue was
9 wrestled out during the legislation, then we have to
10 fall back on words like appropriate.

11 And in trying to articulate to you my view of this,
12 which I knew that you would ask, it seems to me that
13 notice is timely at the moment when the compelling
14 circumstances which the President felt called for
15 deferral ceased to be as compelling as the legitimate
16 interests of the Congress and its Select Committee in
17 knowing it. In other words, a deferral is not something
18 you just put off indefinitely. A deferral goes against
19 the tide and it should be continually revisited. It
20 should be a subject of constant agenda review to
21 determine whether it is appropriate at that point to let
22 the Committee know.

23 THE CHAIRMAN: If you had been Director of Central
24 Intelligence during the period of time in which we have
25 just passed with the Iranian arms situation and

1 notification had been withheld for many months as it
2 was, would you have advised the President that you felt
3 it was inappropriate to withhold notification of this
4 Committee for that period of time?

5 JUDGE WEBSTER: I would.

6 THE CHAIRMAN: If you were the Director of the
7 Central Intelligence Agency and a President took action
8 to withhold notice for prolonged periods of time over
9 your repeated objections and your strong feeling that it
10 was wrong in terms of the spirit of the law and wrong in
11 terms of public policy to continue to withhold
12 notification, what course of action would you take?

13 JUDGE WEBSTER: Mr. Chairman, I believe that the
14 Director of Central Intelligence clearly has an
15 obligation directly with the Senate through this
16 Committee, and that is an obligation of trust which
17 would be breached by my continued acquiescence in
18 something that I believed to be arbitrary, and for all
19 the reasons that you have just stated, inappropriate.
20 And I think that I would have to advise the President of
21 my position on that, and if he would not authorize me to
22 speak to you, I would have to leave. It is that simple.

23 THE CHAIRMAN: Let me ask one last question related
24 to this matter. As you know, the law talks about
25 intelligence gathering activities, and intelligence

1 public hearing tomorrow afternoon with a closed session
2 at that time if there are any classified matters.

3 SENATOR HECHT: I will have some of those questions
4 for you in a classified context. Thank you very much,
5 Judge Webster.

6 THE CHAIRMAN: Let me ask, Judge Webster, what you
7 would do if you were faced with a situation -- a
8 hypothetical situation in which your own values were
9 violated either in terms of the covert action that was
10 undertaken or in terms of failure to notify Congress.

11 Looking back at the concrete situation, our most
12 recent experience, a very damaging situation that
13 developed with the Iranian arms transfer and the failure
14 to notify Congress for a period of some ten or eleven
15 months.

16 If you had been the Director of the Central
17 Intelligence Agency at the time that the Finding was
18 issued by the President for January, bearing in mind
19 consent to notify Congress was not given for several
20 months, what would you have done?

21 JUDGE WEBSTER: I would have to ask the Chairman to
22 understand that I am not possessed of all of the facts.
23 I only know --

24 THE CHAIRMAN: Just knowing what you have read in
25 the newspaper.

1 JUDGE WEBSTER: And in the Tower Commission Report.

2 THE CHAIRMAN: What would you have done?

3 JUDGE WEBSTER: I would have insisted on revisiting
4 the decision not to tell the Congress on a regular and
5 frequent basis. And at the first opportunity when I
6 felt that those reasons that were important to the
7 President at the time that he made the original order
8 were no longer as important as the need to preserve the
9 trust and confidence I would be coming down as hard as I
10 knew how to get the President to change his mind.

11 THE CHAIRMAN: Well in this specific situation, of
12 course, the President did not give authority for
13 notification. In fact, we were finally notified through
14 a newspaper in Beirut.

15 What would you have done?

16 Would you have remained as Director of Central
17 Intelligence Agency given this concrete situation? We
18 know exactly what occurred, we know from the Tower
19 Commission, from this Committee's report and from press
20 accounts. If you had been the Director of Central
21 Intelligence Agency, would you have continued to serve
22 in the Administration given the fact that approval to
23 notify Congress of this operation was not given?

24 JUDGE WEBSTER: I think, first, and I don't want to
25 evade your question because I'm trying to really be sure

1 that I know the answer to it what in my own mind what I
2 would do. I would have been arguing very strongly that
3 the use of Iranian nationals to assist in the release of
4 American hostages in Beirut in exchange for arms was an
5 ill-advised policy contrary to our stated public policy
6 and one which it was very important that Congress
7 understood and supported and if it did not understand
8 and support it, there was very little chance that it
9 would ever be so viewed by the American people as, as
10 the President said, making sense when it got on the
11 front pages of the newspaper.

12 It's a little difficult because there was an
13 important ongoing initiative which many people think had
14 some promise. Although others don't. And that is to
15 try to find a way to restore relationships with a
16 strategically important country when its hostile leader
17 should leave the scene which seems to be not in the too
18 far distant future.

19 That is a very sensitive type of thing. Any kind
20 of backchannel negotiation is very, very sensitive.

21 SENATOR COHEN: We understand Khomeini's
22 grandmother is still alive. I don't know what you've
23 based that on?

24 JUDGE WEBSTER: Well, I haven't been in that
25 situation. I explained earlier this morning, I've never

1 seen a Finding until I saw the ones in this case. So
2 I'm not sure exactly how much of that was explored.

3 THE CHAIRMAN: But again, surely having just sat
4 back, not even as Director of the Federal Bureau of
5 Investigation, but just an American citizen and now
6 you're reading the newspaper accounts. You would have
7 some feeling about now what would I have done if I'd
8 been sitting there as the Director of the Central
9 Intelligence Agency and I had argued against this policy
10 and I'd argued in favor of notifying Congress and I'd
11 been overruled month after month after month. Now
12 surely most of us can sit back and many of us perhaps
13 are arm chair quarterbacked too often. Most of us can
14 sit back and say if I were there I would have done such
15 and such.

16 Now, if you had been there, what would you have
17 done?

18 Would you have remained a part of the
19 Administration -- you talked this morning hypothetically
20 about well if I were confronted with the situation where
21 I felt it violated my standards or was just going too
22 far, I would have to leave. Or I would have to get out.
23 Or, I've forgotten the exact words, but you in essence
24 meant I would have to resign.

25 This isn't a hypothetical. It happened. If

1 William H. Webster, if we confirm you to this post. If
2 you had been sitting there as the Director of the
3 Central Intelligence Agency, during that period of time,
4 what would you have done?

5 JUDGE WEBSTER: I must tell you in all candor, I
6 would be asking -- one of the questions I'd be asking is
7 could this particular Committee keep that information
8 within the Committee? I don't -- I'm saying that
9 because I think it is a legitimate -- it influences your
10 decision in trying to balance the importance of it.

11 I think that I -- I'd like to think that I would
12 have prevailed on the President long ago --

13 THE CHAIRMAN: The Director did not -- the
14 President did not notify Congress. It's not
15 hypothetical -- given the operation that was ongoing,
16 given the fact that we were trading arms to terrorists,
17 and you said that disturbed you greatly. It was at
18 variance with our public policy. Would you have
19 remained a part of the Administration? I believe as
20 strongly as you do about the responsibility of this
21 Committee and others to keep secrets as you know. We
22 have battened down the hatches. I don't think from the
23 current Membership of this Committee, those currently a
24 Member of this Committee since January of this year, I
25 don't think we have had any information inappropriately

1 released. We don't even let it out of our space.

2 Documents or notes.

3 What would you have done?

4 JUDGE WEBSTER: If I can take that one as a given,
5 in that context, I would have insisted that there be
6 notification or I would have not been able to stay.

7 Now, at the exact point at which I would do, I'm
8 not -- today, I don't think I can pin that down, because
9 I don't know enough. But I'm confident during -- that
10 period was too long. And you should have been notified.

11 THE CHAIRMAN: At some time in that period after
12 you had attempted to change the notification policy or
13 the policy itself, you would have left. Is that
14 correct?

15 JUDGE WEBSTER: That's correct.

16 THE CHAIRMAN: Let me go back again to this logical
17 question that Senator Cohen raised. He said, and I must
18 confess the more I think about it the more difficulty I
19 have in understanding it. We have an investigation of
20 the Hasenfus matter. We have an investigation of
21 Southern Air Transport in terms of their operations in
22 Central America.

23 You have said that until November the 25th, that
24 you were like the rest of us in this country, you didn't
25 realize there was any connection, diversion of funds

1 investigation at the end of the ten day period?

2 JUDGE WEBSTER: I called back to Mr. Trott and
3 said, "The ten days are up. Can we begin?" And he
4 said, "I don't know. I'll get back to you." He got
5 back to us on the 20th.

6 THE CHAIRMAN: And said it was all right to resume
7 the negotiations?

8 JUDGE WEBSTER: That's right. No restrictions.

9 THE CHAIRMAN: I want to go into the matter of the
10 Varelli situation, but I think our time is such that I
11 better not commence that.

12 Now, let me go on to Senator Cohen at this time.

13 SENATOR COHEN: Well, I think I should take umbrage
14 at one of the Chairman's last remarks. He said that I
15 asked a question, the logic of which could not escape
16 him. Part of that was that I asked questions of which
17 the logic does escape him --

18 THE CHAIRMAN: Let me correct the record. On this
19 instance, I understood the logic of the question but not
20 the logical connection between the two points being
21 raised.

22 SENATOR COHEN: We are trying to define exactly
23 what you see as the parameters for the timely
24 notification to the Congress. I think you made a
25 statement in response to Senator Boren that if the

1 reasons that the President originally offered for not
2 notifying Congress were no longer as important as they
3 were at the time, then you would give consideration at
4 that point to insisting that notice be given.

5 I have a difficulty with that because it is still
6 very broad. For example, there are two reasons that
7 were offered for not notifying Congress: number one,
8 this was a new strategic opening to Iran. That
9 strategic opening might take two years. In which case
10 Congress would never be notified during that two year
11 timeframe.

12 Secondly, there was what involved the primary
13 motivation, and that was the return of the hostages.
14 Every time a hostage was about to be returned, that
15 would be justification enough not to notify Congress.
16 So you have a program, theoretically, that could be
17 carried on even under your interpretation of timely
18 notice for as long as two years -- or eighteen months as
19 it was in this case. And you really suggest to this
20 Committee that that is your understanding of what timely
21 notice would constitute in the meaning of the law?

22 JUDGE WEBSTER: No, I think that this is one reason
23 why that this particular hypothetical, even though we
24 may know more about it than we do in other
25 hypotheticals, is not as simple as it sounds because

1 perhaps more justification could be made for a
2 diplomatic initiative over a sustained period of time
3 than for a hostage situation involving the exchange of
4 arms. And I don't really know that I know the answer to
5 that, but what I tried to say in terms of defining my
6 sense of timeliness -- because the statute doesn't do it
7 and I don't think can do it really -- is not just when
8 the reason was not as strong as it was in the beginning,
9 but when the corresponding need to keep the Congress
10 informed -- to have the support of the Congress through
11 the Intelligence Committees was more compelling than the
12 remaining reasons for keeping it secret.

13 SENATOR COHEN: Do you recall seeing Mr. Gates
14 testify before this Committee several weeks ago? Did
15 you have a chance to either watch or read about his
16 interpretation of timeliness?

17 JUDGE WEBSTER: I've only seen portions of Mr.
18 Gates' testimony, and I have read portions of it.

19 SENATOR COHEN: With respect to timeliness, I think
20 he indicated that forty-eight hours was about as timely
21 as one could get within the meaning of that
22 interpretation. That beyond that time, he would start
23 to be very concerned, and would feel compelled to notify
24 Congress.

25 JUDGE WEBSTER: I haven't any problem with that. I

1 think he said several days would be his view of the
2 outside.

3 SENATOR COHEN: So you would confine timely notice,
4 then, to within several days, as opposed to several
5 months or in some cases several years?

6 JUDGE WEBSTER: Well, I would try to relate it to
7 the particular situation. And as I said in my
8 testimony, I have trouble imagining any situation that
9 is so sensitive and life threatening that the Congress
10 cannot be advised of it.

11 But one thing, not only do I believe the act makes
12 it clear that you're entitled to be informed, but also,
13 I think, that any project that cannot survive
14 Congressional notification is suspect from the
15 beginning.

16 SENATOR COHEN: You also indicated that one other
17 test that you would apply would be that you would have
18 to know wheter Congress could keep that secret. That is
19 not a condition in the statute.

20 JUDGE WEBSTER: I realize that. And I appreciate
21 your bringing that to my attention. But there are no
22 conditions in the statute. It says that the President
23 should give his reasons why and that he should notify in
24 a timely way. And I was trying to leave room for things
25 that I have said I cannot even imagine that would --

1 where something was so tight that they couldn't come. I
2 can't -- I really -- I'm a lot in the situation I was
3 when I stood before the Committee -- Judiciary Committee
4 to be Director of the FBI. I'm trying to leave myself
5 room for the unknown. But I'm telling you that I don't
6 know any situations where you shouldn't be promptly
7 advised.

8 SENATOR COHEN: I share your concern about not
9 wanting to disclose information that might possibly be
10 leaked and jeopardize lives, and Senator Boren and the
11 rest of us who sit on this Committee are certainly
12 dedicated to that.

13 But that qualification is not part of the law, and
14 it's one of the things that ended in this entire Iran
15 affair where you have Ollie North, for example, saying
16 let's not tell Secretary Shultz. If you tell the
17 Secretary of State, that's the end of the program. And
18 let's not tell all of the other people, and soon you
19 have a private foreign policy being carried out without
20 anyone's notice or knowledge beyond a select group
21 within the White House. And that's a very dangerous
22 situation to --

23 JUDGE WEBSTER: I agree with that. And it's one of
24 the reasons of leaking at the Executive branch and
25 leaking elsewhere. It's such a concern to people. If

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UNITED STATES

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

FULL COMMITTEE

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NOMINATION OF WILLIAM H. WEBSTER
TO BE DIRECTOR OF CENTRAL INTELLIGENCE

Thursday, April 9, 1987



WASHINGTON, D.C. 20510

1 level administrative action and personally participate in
2 high level administrative action. If I can say to you as
3 a generalization, without trying to spell out all of the
4 procedures that we have in place, in my nine years of
5 office, there has not been one single successfully
6 maintained claim of a violation of a constitutional right
7 by agents of the Federal Bureau of Investigation.

8 THE CHAIRMAN: Senator Cohen and then Senator Specter
9 will follow Senator Cohen.

10 SENATOR COHEN: Judge Webster, I was not quite clear
11 on the notice that you would feel compelled to give to
12 this Committee in the event a covert operation. I would
13 like to read Bob Gates' testimony before the Committee
14 when he came for us for confirmation. He said "I have
15 committed to the Committee that I will recommend to the
16 President against withholding prior notification under any
17 circumstances except the most extreme involving life and
18 death and then only for a few days, several days, my exact
19 statement." Is that your commitment as well?

20 JUDGE WEBSTER: I'd like to make it my commitment.
21 I'm not quite in the same position as Mr. Gates. He has a
22 far more intimate knowledge of what goes on over there,
23 and I hope he's right. I certainly would want to. I
24 would expect to.

25 SENATOR COHEN: I think if you don't, you're going to

1 have Congress legislating 48 hours.

2 JUDGE WEBSTER: I know that absolutely. And I don't
3 want you to have to do that.

4 SENATOR COHEN: Do you want to think some more about
5 whether you are going to be in a position at some point to
6 make the same kind of commitment that Mr. Gates made?

7 JUDGE WEBSTER: I can make it to you now. I just...I
8 want from the very beginning of these confirmation
9 proceedings until the end of the length of time I serve if
10 I'm confirmed, to have you feel that I have maintained
11 every pledge that I have made to you.

12 SENATOR COHEN: What is your pledge now on the notice
13 to the Committee on covert actions?

14 JUDGE WEBSTER: My pledge is to notify you in the
15 timeliest way possible and that I cannot conceive of
16 ...and I said that yesterday... that I can't think of any
17 that would not involve the promptest notification. That's
18 whether we talk about several days, or forty-eight hours,
19 or talk about as soon as possible. I would like to see
20 you notified in less than forty-eight hours if it's
21 possible to do so in a rational, reasonable way.

22 SENATOR COHEN: And what if you had doubts about the
23 ability of this Committee to keep a secret?

24 JUDGE WEBSTER: Well I have no doubts at the present
25 time. If I had reason to doubt, I think I would have to

1 Finding at the time, it would not have been a legal
2 action?

3 In other words, retroactivity would not give legality
4 to the action?

5 JUDGE WEBSTER: That would be my view of it.

6 THE CHAIRMAN: And therefore you would report that
7 illegality to this Committee?

8 JUDGE WEBSTER: I would report it.

9 THE CHAIRMAN: Let me ask also in terms of oral
10 Findings because there is great concern of people saying
11 that they are acting with the authority of the President
12 without his knowledge. Would you pledge to us to act only
13 upon either a written Finding, clearly signed by the
14 President of the United States, or upon an oral direction
15 from the President himself in case of extreme emergency so
16 that you would know that that order came from the
17 President and from no other person presuming to act under
18 his authority?

19 JUDGE WEBSTER: I would.

20 THE CHAIRMAN: Let me go back again to the question,
21 and I want you to think very carefully about this because
22 it's very important to the Committee.

23 The law does provide for timely notice of covert
24 action for which prior notice is withheld by the
25 President. The President withholds prior notice; the law

1 says then timely notice shall be given after the fact.

2 Now I want to repeat again and I want you to really
3 think about this because I can assure you it's extremely
4 important to the Members of this Committee.

5 The Vice Chairman has already read the words of Mr.
6 Gates, who has requested to give his position on this
7 matter several times in the course of the hearings and he
8 indicated that he would recommend -- we're not saying what
9 would be done, you've already indicated that if the
10 President did not follow your recommendations after a
11 reasonable period of time, that you would consider leaving
12 your post.

13 This has to do with what you would -- not the
14 President's action, but what you would recommend. Would
15 you recommend to the President against withholding
16 notification under any circumstances except the most
17 extreme circumstances involving life and death and then
18 only for a few days? Would that be your recommendation?
19 Would you tell this Committee that that would be your
20 recommendation based upon your understanding of the
21 importance of the oversight process?

22 Would you pledge to this Committee to make that your
23 recommendation to the President?

24 JUDGE WEBSTER: Yes, it would.

25 THE CHAIRMAN: Well, I appreciate that very much and

1 I think it's extremely important that that be understood
2 because we're going to build a consensus for foreign
3 policy, make decisions together, decisions that can stick
4 and won't be reversed every other week. I think it's
5 essential that it is that kind of commitment and that kind
6 of understanding that both branches of government need to
7 go forward together.

8 Let me ask, and again, I don't want to come back to
9 painful subjects and I don't want to close on this note.

10 No, I'm not going to come back to the Alfalfa matter,
11 I assure you.

12 (LAUGHTER)

13 JUDGE WEBSTER: We can pick that up later with the
14 Vice Chairman in private.

15 The question of the memorandum. A letter was
16 dispatched from the Vice Chairman and myself to Mr. Walsh
17 on March the 9th indicating to him that we would be
18 considering your nomination and asking that any facts that
19 might be relevant to your particular role including copies
20 of any documents under his control which might relate to
21 any possible knowledge that you might have of the Iranian
22 arms sales or the Contra diversion be provided to us.
23 And, as you know, the memorandum about which you were
24 questioned yesterday was provided to us by the Office of
25 Special Counsel.



Washington, D.C. 20505

22 MAY 1987 OCA 87-2216

The Honorable Louis Stokes, Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your letter of 8 May 1987 concerning General Services Administration (GSA) Federal Protective Officers (FPOs) and the CIA's Security Protective Service (SPS). Let me begin by answering briefly the specific questions contained in your letter:

- As of 10 May 1984, 161 FPOs, 145 of whom were minorities, were assigned to the Agency.
- To date, 11 FPOs, six of whom are minorities, have applied for SPS positions.
- As of 8 May 1987, the Agency has hired four FPOs, three of whom are minorities. Five other FPOs, three of whom are minorities, are in process for employment.

In addition, you might be interested in our experiences with this program to date:

- At the start of the SPS recruitment program, we notified all FPOs assigned to CIA facilities that we were recruiting for the SPS. They were afforded special briefings on the program in the CIA auditorium. We provided incentives in the form of a waiver of Federal Law Enforcement Training Center (FLETC) training if the individual had Federal Protective Service (FPS) refresher training within the past five years. We also waived for FPOs the minimum Agency qualifying score on our standard clerical/technical employee aptitude test (SET). Three of the four former FPOs now in the SPS ranks were hired during this initial period, prior to

October 1985. All four received starting pay comparable to that which they had been receiving in the FPS.

- ° Very early in the SPS program we learned that GSA, which was operating at about 65 percent of its FPO strength, would not be able to replace FPOs in CIA buildings who left their service to join the SPS. Due to the fact that the Special Protective Officers (SPOs) could be assigned only to certain facilities at that time, we were left with an unfillable vacancy each time an FPO departed from a facility which could not be covered by the SPS. By agreement with GSA, Agency managers refrained from active recruiting of FPOs at that time. We did not decline to accept applications from FPOs, but the only preferential treatment afforded FPOs between October 1985 and November 1986 was the waiver of FLETC training and SET scores.
- ° Prior to October 1985, SPO starting salaries were determined by what was asked for by the applicant and the applicant's credentials. We learned that other services, such as the Secret Service Uniformed Division and the Capitol Hill Police, had set uniform entry salary levels which served them well. Therefore, we set a uniform maximum entry level of GS-06, Step 1, effective in October 1985. All SPOs hired between October 1985 and April 1987 were at the GS-06, Step 1 level.
- ° While uniform entry-level pay was fair in the sense that it was uniformly applied, the fact of the matter is that our starting salary of GS-06, Step 1, represented a pay cut for most FPOs who, although they were GS-04s and GS-05s, were at step levels which afforded them higher pay. The thought of a pay cut was surely a disincentive to many FPOs. After our initial efforts to recruit SPOs from the local areas had failed to produce a sufficient number of applicants, we began to recruit more widely throughout the Continental U.S.

In November 1986, we reached agreement on completing the FPO/SPS transition with the FPS and obtained its agreement to resume active recruitment of FPOs. We subsequently sent about 150 recruitment letters to FPOs and distributed an equal number

of recruitment brochures. We are giving all FPO applications priority handling. In addition, in April 1987, we raised the entry-level SPS salary to a negotiable range from \$20,378 to \$26,435, depending on qualifications, to be more competitive with local police organizations. We hope these steps will increase our success in hiring FPOs for the SPS.

The bottom line is that we have not been successful in recruiting a significant number of FPOs for the SPS thus far. Although there are many reasons for this situation, as described earlier, one principal reason is that we were simply not active enough in recruiting FPOs from the start. I assure you that since last November we have worked to correct this deficiency and will redouble our efforts to ensure that the FPOs assigned to CIA receive the hiring preference which Congress expects.

Sincerely,

/s/ Robert M. Gates

Robert M. Gates
Acting Director of Central Intelligence

OCA/Senate (20 May 87)

STAT

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May 8, 1987

THOMAS K. LATIMER, STAFF DIRECTOR
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 THOMAS R. SWEETON, ASSOCIATE COUNSEL

Honorable Robert M. Gates
 Acting Director of Central Intelligence
 Washington, D.C. 20505

Dear Mr. Gates:

The Intelligence Authorization Act for Fiscal Year 1985 contained a provision authorizing the appointment of special CIA policemen to protect Agency personnel and property. In its report accompanying the House version of the Fiscal Year 1985 bill, the Committee stated, with respect to the special police authority, that it "expects the CIA to grant preferences in hiring for the planned CIA physical security personnel positions to qualified individuals who currently serve in FPO assignments at the CIA."

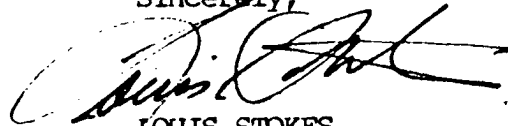
Please provide the Committee with a statistical analysis that shows:

- how many FPO policemen were assigned for duty at CIA on May 10, 1984, the date the House report was filed, including how many of such number were minorities;
- how many FPO policemen applied for special CIA police positions including how many of this number were minorities; and
- how many FPO policemen have been hired by the Agency as of the date of this letter, including how many of that number are minorities.

In addition, please provide the Committee with a description of how the Agency went about giving preference to those FPO policemen formerly assigned at CIA who applied for employment as special CIA policemen, as well as any efforts the Agency may have made to inform these FPO policemen of job opportunities and possible hiring preference at CIA.

Please provide this information to the Committee by May 18, 1987.

Sincerely,



LOUIS STOKES
 Chairman